

technical assistance, and related activities in urban and community forestry;

(B) the Council's recommendations for research, education, technical assistance, and related activities in the succeeding year; and

(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review submitted to the Secretary shall be incorporated into the annual report required under section 1601(d) of this title.

#### (6) Detail of personnel

Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this chapter.

#### (h) Definitions

For the purposes of this section—

(1) the term "Council" means the National Urban and Community Forestry Advisory Council established under subsection (g);

(2) the term "plan" means the National Urban and Community Forestry Action Plan developed under subsection (g)(3); and

(3) the term "urban and community area" includes cities, their suburbs, and towns.

#### (i) Authorization of appropriations

There are hereby authorized to be appropriated \$30,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary for each fiscal year thereafter, for the implementation of this section.

(Pub. L. 95-313, §9, formerly §6, July 1, 1978, 92 Stat. 369; renumbered §9 and amended Pub. L. 101-624, title XII, §§1215(1), 1219(a), Nov. 28, 1990, 104 Stat. 3525, 3533; Pub. L. 102-237, title X, §1018(a)(3), Dec. 13, 1991, 105 Stat. 1905; Pub. L. 110-234, title VII, §7511(c)(36), May 22, 2008, 122 Stat. 1271; Pub. L. 110-246, §4(a), title VII, §7511(c)(36), June 18, 2008, 122 Stat. 1664, 2032.)

#### CODIFICATION

November 28, 1990, referred to in subsec. (g)(3), was in the original "the date of enactment of this subsection", which was translated as meaning the date of enactment of Pub. L. 101-624, which amended this section generally, to reflect the probable intent of Congress.

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Subsec. (g)(2)(A)(viii). Pub. L. 110-246, §7511(c)(36), substituted "National Institute of Food and Agriculture" for "Extension Service".

1991—Subsec. (g)(1)(C), (3)(E). Pub. L. 102-237, §1018(a)(3)(A), (B), substituted "subsection (f)" for "subsection (e)".

Subsec. (h)(1). Pub. L. 102-237, §1018(a)(3)(C), substituted "subsection (g)" for "subsection (f)".

Subsec. (h)(2). Pub. L. 102-237, §1018(a)(3)(D), substituted "subsection (g)(3)" for "subsection (f)(3)".

1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions relating to Congressional findings concerning urban forestry assistance, financial, technical, and related assistance to State foresters or equivalent State officials to encour-

age planning of urban forestry programs, and authorization of appropriations.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(36) of Pub. L. 110-246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110-246, set out as a note under section 1522 of Title 7, Agriculture.

#### TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 2106. Rural fire prevention and control

#### (a) Congressional findings

Congress finds that—

(1) significant accomplishments have been made by the Secretary and cooperating States in the prevention and control of fires on forest lands and on nonforested watersheds for more than fifty years;

(2) progress is being made by the Secretary and cooperating States and rural communities in the protection of human lives, agricultural crops and livestock, property and other improvements, and natural resources from fires in rural areas;

(3) notwithstanding the accomplishments and progress that have been made, fire prevention and control on rural lands and in rural communities are of continuing high priority to protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(4) the effective cooperative relationships between the Secretary and the States regarding fire prevention and control on rural lands and in rural communities should be retained and improved;

(5) efforts in fire prevention and control in rural areas should be coordinated among Federal, State, and local agencies; and

(6) in addition to providing assistance to State and local rural fire prevention and control programs, the Secretary should provide prompt and adequate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.

#### (b) Implementation of provisions

Notwithstanding the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2201 et seq.] the Secretary is authorized, under whatever conditions the Secretary may prescribe, to—

(1) cooperate with State foresters or equivalent State officials in developing systems and

methods for the prevention, control, suppression, and prescribed use of fires on rural lands and in rural communities that will protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(2) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands;

(3) provide financial, technical, and related assistance to State foresters or equivalent State officials in cooperative efforts to organize, train, and equip local firefighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas. As used herein, the term “rural areas” shall have the meaning set out in the first clause of section 1926(a)(7)<sup>1</sup> of title 7; and

(4) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, including rural volunteer fire departments, to conduct preparedness and mobilization activities, including training, equipping, and otherwise enabling State and local firefighting agencies to respond to requests for fire suppression assistance.

**(c) Encouragement of use of excess personal property by State and local fire forces receiving assistance; cooperation and assistance of Administrator of General Services**

The Secretary, with the cooperation and assistance of the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41) by State and local fire forces receiving assistance under this section.

**(d) Coordination of assistance with assistance of Secretary of Commerce under Federal fire prevention and control provisions**

To promote maximum effectiveness and economy, the Secretary shall seek to coordinate the assistance the Secretary provides under this section with the assistance provided by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2201 et seq.].

**(e) Authorization of appropriations for implementation of provisions**

(1) There are hereby authorized to be appropriated annually such sums as may be needed to implement paragraphs (1), (2), and (3) of subsection (b) of this section.

(2)(A) There are hereby authorized to be appropriated annually \$70,000,000 to carry out subsection (b)(4). Of the total amount appropriated to carry out subsection (b)(4)—

(i) one-half shall be available only for State foresters or equivalent State officials, and through them to other agencies and individuals, of which not less than \$100,000 shall be made available to each State; and

(ii) one-half shall be available only for rural volunteer fire departments.

(B) The Federal share of the cost of any activity carried out with funds made available pursuant to this paragraph may not exceed 50 percent of the cost of that activity. The non-Federal share for such activity may be in the form of cash, services, or in kind contributions.

**(f) Special rural fire disaster fund; establishment, appropriations, etc.**

There shall be established in the Treasury a special rural fire disaster fund that shall be immediately available to and used by the Secretary to supplement any other money available to carry out this section with respect to rural fire emergencies, as determined by the Secretary. The Secretary shall determine that State and local resources are fully used or will be fully used before expending money in the disaster fund to assist a State in which one or more rural fire emergencies exist. There are hereby authorized to be appropriated such sums as may be needed to establish and replenish the disaster fund established by this subsection.

**(g) Definitions**

As used in this section—

(1) the term “rural volunteer fire department” means any organized, not for profit, fire protection organization that provides service primarily to a community or city with a population of 10,000 or less or to a rural area, as defined by the Secretary, whose firefighting personnel is 80 percent or more volunteer, and that is recognized as a fire department by the laws of the State; and

(2) the term “mobilization” means any activity in which one firefighting organization assists another that has requested assistance.

(Pub. L. 95-313, § 10, formerly § 7, July 1, 1978, 92 Stat. 370; renumbered § 10 and amended Pub. L. 101-624, title XII, §§ 1215(1), 1220, Nov. 28, 1990, 104 Stat. 3525, 3539; Pub. L. 102-237, title X, § 1018(a)(4), Dec. 13, 1991, 105 Stat. 1905.)

REFERENCES IN TEXT

The Federal Fire Prevention and Control Act of 1974, referred to in subsecs. (b) and (d), is Pub. L. 93-498, Oct. 29, 1974, 88 Stat. 1535, as amended, which is classified principally to chapter 49 (§ 2201 et seq.) of Title 15, Commerce and Trade. For complete classification of the Act to the Code, see Short Title note set out under section 2201 of Title 15 and Tables.

Section 1926(a)(7) of title 7, referred to in subsec. (b)(3), was repealed by Pub. L. 107-171, title VI, § 6020(b)(1), May 13, 2002, 116 Stat. 363.

CODIFICATION

In subsec. (c), “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

<sup>1</sup> See References in Text note below.

## PRIOR PROVISIONS

A prior section 10 of Pub. L. 95-313 was renumbered section 13 and is classified to section 2109 of this title.

## AMENDMENTS

1991—Subsec. (g)(2). Pub. L. 102-237 substituted “fire-fighting organization” for “fire fighting organization”.

1990—Subsec. (b)(4). Pub. L. 101-624, § 1220(a), added par. (4).

Subsec. (e). Pub. L. 101-624, § 1220(b), designated existing provisions as par. (1), inserted reference to paragraphs (1), (2), and (3) of subsec. (b), and added par. (2).

Subsec. (g). Pub. L. 101-624, § 1220(c), added subsec. (g).

## TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions vested in Secretary of Commerce pursuant to provisions of Federal Fire Prevention Control Act of 1974, 15 U.S.C. 2201 et seq., transferred to Director of Federal Emergency Management Agency pursuant to Reorg. Plan No. 3 of 1978, § 201, June 19, 1978, 43 F.R. 41944, 92 Stat. 3788, set out in the Appendix to Title 5, Government Organization and Employees, effective Apr. 1, 1979, as provided by Ex. Ord. No. 12127, §§ 1-101, 1-103(a), Mar. 31, 1979, 44 F.R. 19637.

**§ 2106a. Emergency reforestation assistance****(a) In general**

The Secretary of Agriculture is authorized to provide assistance under this section to eligible landowners who suffer destruction of 35 percent or more of a commercial tree stand due to damaging weather, related condition, or wildfire.

**(b) Form of assistance**

The assistance, if any, provided by the Secretary under this section shall consist of either—

(1) reimbursement of up to 65 percent of the cost of reestablishing such tree stand damaged by the damaging weather, related condition, or wildfire in excess of 35 percent mortality; or

(2) at the discretion of the Secretary, provision of sufficient tree seedlings to reestablish such tree stand.

**(c) Conditions****(1) Limitation on assistance**

No person may receive an amount in excess of \$25,000 in any fiscal year, or an equivalent value in tree seedlings, under this section.

**(2) Ineligibility**

A person who has qualifying gross revenues in excess of \$2,000,000 annually, as determined by the Secretary, shall not be eligible to receive any disaster payment or other benefits under this section.

**(3) Implementation**

In implementing this section, the Secretary shall issue regulations—

(A) defining the term “person” for the purposes of this section that shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1308<sup>1</sup> of title 7 (before the amendment made by section 1603(a) of the Food, Conservation, and Energy Act of 2008);

(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection; and

(C) ensuring that no person receives duplicative payments or assistance under this section, the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.), and the environmental quality incentives program established under subchapter A of chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.], or other Federal program.

**(d) Definitions**

As used in this section—

(1) the term “damaging weather” includes drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;

(2) the term “eligible landowner” means a person who—

(A) produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees;

(B) owns 1,000 acres or less of private forest land; or

(C) owns more than 1,000 acres but less than 5,000 acres of private forest land if the Secretary, in the Secretary’s discretion, determines the person eligible;

(3) the term “qualifying gross revenues” means—

(A) if a majority of the person’s annual income is received from farming, ranching, and forestry operations, the gross revenue from the person’s farming, ranching, and forestry operations; and

(B) if less than a majority of the person’s annual income is received from farming, ranching, and forestry operations, the person’s gross revenue from all sources;

(4) the term “related condition” includes insect infestations, disease, or other deterioration of a tree stand that is accelerated or exacerbated by damaging weather;

(5) the term “reestablish” includes site preparation, reforestation of a damaged stand, and timber stand improvement practices, including thinning, prescribed burning, and other practices approved by the Secretary for reforestation;

(6) the term “Secretary” means the Secretary of Agriculture; and

(7) the term “wildfire” means any forest or range fire.

**(e) Retroactive assistance**

The Secretary shall use funds provided under this section to reimburse landowners for approved reforestation practices that were implemented before November 28, 1990. The Secretary

<sup>1</sup> See References in Text note below.